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**BEST AVAILABLE COPY** Attorney's Docket No.:10559/379001REMARKS

Claims 1-18 were pending in the application. Claims 19 and 20 have been added. Claims 19 and 20 are supported in the specification; thus, no new matter is added.

Claims 1-18 stand rejected as allegedly not complying with 35 U.S.C. 112. In view of the amendments and remarks herein, the rejection is respectfully traversed, and reconsideration and allowance are respectfully requested.

Claim 1

Claim 1 has been amended for clarity. Claim 1 is supported in the specification, for example, in FIG. 2.

In the exemplary implementation of FIG. 2, the feature "determining whether a low resource condition exists in a shared memory subsystem at a first time" of claim 1 is illustrated by decision box 225,

The feature "if a low resource condition exists in the shared memory subsystem at the first time" is illustrated by the "Yes" option of decision box 225.

The feature "marking a current data packet as a marked data packet" is illustrated by box 230.

The feature "processing an array of data packets, wherein each data packet in the array is flagged for buffering" is illustrated by box 235.

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The feature "checking the resource condition in the shared memory subsystem at a second time later than the first time" is illustrated by decision box 245.

The feature "removing all buffering flags from the data packets if the resources are not low in the shared memory subsystem at the second later time" is illustrated by the "No" branch of decision box 245 and boxes 250 and 255.

With respect to the 35 U.S.C. 112 rejection, the office action states on page 3: "Once the re-check has been accomplished, it appears as though there is either a removal of all flags with a copy to host memory (no low resources) or a copy to OS buffers followed by a copy to host memory (low resources). There seems to be no indication that there is some kind of partial copy of flagged packets to OS buffers followed by a copy of the remaining unflagged packets to the host memory." (Emphasis added).

It is noted that the claims, both in their current amended form and prior to amendment, did not require that there be a partial copy. In a first example, if all packets were flagged, they would all be copied to the buffer and there would be no remaining data packets to be copied to a host memory. In a second example, if all packets were unflagged (e.g., if the check of the resource condition in the shared memory subsystem determined that the resources were not low), there would be no

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flagged data packets to copy to a buffer, and so all packets would be copied to the host memory.

In its current amended form, claim 1 recites "removing all buffering flags from the data packets if the resources are not low in the shared memory subsystem at the second later time," and the rejection is thus rendered moot.

For at least this reason, claim 1 complies with the requirements of 35 U.S.C. 112.

Claim 2

Claim 2 has been amended to correct the noted informality.

Claim 4

Claim 4 has been amended to note that the array of data packets are copied to the host memory if a low resource condition does not exist in the network at the first time.

Claim 9

Claim 9 has been amended to correct the noted informality.

Claim 11

Claim 11 has been amended to recite that receiving the data packets and copying the data packets into a shared memory is prior to marking the specific received data packet. An exemplary embodiment of this feature is shown as elements 210 and 215 of Figure 2.

Claim 14

Claim 14 has been amended to correct the noted informality.

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New claims 19 and 20

Claims 19 and 20 are directed to acts of copying data packets, where claim 19 recites that all flagged data packets are copied to a buffer and claim 20 recites that all unflagged data packets are copied to a host memory. Thus, the "remaining" language has been replaced by the term "unflagged." As noted above, claims 19 and 20 comply with 35 U.S.C. 112. For claim 19, if there are no flagged data packets, claim 19 does not require that any data packets be copied to the buffer. For claim 20, if there are no unflagged data packets, claim 20 does not require that any data packets be copied to the host memory.

The Cited References

It is first noted that a number of the cited references have filing dates subsequent to that of the current application, and are thus not prior art under 102(a), 102(b), or 102(e). These references are U.S. Published Patent Applications No. US 2004/0111503, US 2003/0236911, US2002/0194332, US 2003/0065735, and US 2004/0085977.

With respect to the remainder of the cited references, none of the references appear to teach or suggest the features of pending claims 1-20.

For example, with respect to claim 1, none of the references appear to teach or suggest determining whether a low resource condition exists in a shared memory subsystem at a

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first time, and if the low resource conditions exists in the shared memory subsystem at the first time, flagging each packet in the array, and checking the resource condition in the shared memory subsystem at a second time later than the first time.

Claims 2-7, 19, and 20 depend from claim 1 and are thus patentable for at least the same reasons. Claim 14 and its dependent claims 15-18 include similar features, and are thus patentable for similar reasons.

With respect to claim 8, none of the references appear to teach or suggest "flagging the specific packet and a plurality of subsequently received data packets for buffering with buffering flags," subsequently "determining network resources are available;" and "removing the buffering flags based on the determining network resources are available."

For at least this reason, claim 8 is patentable over the cited references. Claims 9-13 depend from claim 8, and are thus patentable for at least the same reasons.

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CONCLUSION

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue, or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Claims 1-20 are in condition for allowance, and a notice to that effect is respectfully solicited. If the Examiner has any questions regarding this response, the Examiner is invited to telephone the undersigned at (858) 678-4311.


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No fees are believed due at this time. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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